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UNITED STATES BANKRUPTCY COURT
SOUTHER DISTRICT OF NEW YORK

IN Re:)	Chapter 11
CELSIUS NETWORK, LLC., et al., ¹)	Case No. 22-10964 (MG)
Debtors)	(Jointly Administered)

**MOTION TO INCLUDE “CONTROL ON COLLATERAL” as part of SECURITY
PERFECTION IN RE-CONSIDERING STABLECOIN HOLDERS AS SECURED
CREDITORS**

The argument under Motion 1185 and 1188, was that since the security interests were not perfected and debtors did not grant Stablecoin holders on the platform a security interest in any of property Debtor estate, hence the Stablecoin holders are not eligible to be Secure Creditor in the motion filed under 1185 and 1188. The motion filed by Committee of Unsecured Creditors and Kirkkland & Ellis, however omitted other ways of perfecting the security interests/liens in an implied security agreement.

The perfection of the lien in Uniform Commercial Code can take place:-

1. by filing a financing statement with the appropriate public office
2. by possessing the collateral
3. by "controlling" the collateral
4. it's done automatically upon attachment of the security interest.

The perfection approach in 3) above is aligned with the Uniform Commercial Code (UCC) that states that, "A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral -

<https://www.nolo.com/legal-encyclopedia/how-attach-perfect-security-interest-under-the-ucc.html>

The perfection through “control” was not mentioned in Docket 1185 and 1188. Prior to the bankruptcy filing, Celsius allowed its Stablecoin creditors to “control” the collateral in the form of Stablecoin by letting Celsius Stablecoin holders under Earn accounts to transfer the stablecoins in or out from the platform app anytime they wish to without the consent of Celsius. Stablecoin holders under Earn accounts have full control of the stablecoins.

Reasons Stablecoin Creditors should be treated as Secured Creditors

Apart from the perfection point above under Uniform Commercial Code that was omitted in the motions filed under 1185 and 1188, there is also an urgent need for the Court to address a concerning issue – that is the treatment of Stablecoins currently it’s being viewed by some parties as the same class as other crypto assets class like Bitcoin, Ethereum, and other crypto, when in reality it should not be treated similar in class with Bitcoin and other crypto assets.

1. To give some context, generally when the price of Bitcoin moves upward or downward, all the other crypto assets or alternate coins (except Stablecoin) will follow the Bitcoin price movement. This means when the price of Bitcoin moves upwards, the bitcoin and other crypto assets holders can reap tremendous profits and vice-versa. **This is not the same for Stablecoin holders.**

No matter which directional price movement in Bitcoin - either upwards or downwards movement, the Stablecoin holder do not enjoy any profits nor experience any loss in its value because Stablecoins values are pegged 1:1 in US Dollar. For example 1000 number of Stablecoins in USDC or USDT are equivalent in United States Dollar 1000 (USD 1000)

2. Unlike other Bitcoin/Crypto asset holders, **most Stablecoin holders (also known as US dollar holders) have lower risk appetites - they do not speculate the Bitcoin price movement nor wish to experience volatilities in the dollar value the Stablecoins they held,** therefore many of the Celsius creditors converted their wealth either in crypto assets (BTC, ETH, etc) or **even move their life-saving/retirement funds into Celsius in the form of Stablecoins to Celsius,**

especially when Alex has been not only once, but countless times over the last 12 months mentioning in his weekly AMA that Celsius is safer than the bank.

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174910172280000000102.pdf>

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174908222280000000008.pdf>

3. Stablecoins should also not be treated as Crypto Commodity/Consumerable/Store of Value Assets like Bitcoin, Ethereum but instead be viewed as a Currencies. Bitcoin and other Crypto are virtual assets back by the faith of the community, and that it should not be viewed as sovereign currencies because of its attributes - **volatilities and inabilities to maintain a stable value relatively to US dollar.** Stablecoins on the other hand, have attributes opposite of Bitcoin, Ethereum and others crypto **as it can maintain its stable value over long period of time as it's pegged 1 to 1 in value to the United States Dollar.** As the Stablecoin are denominated in United States Dollar, the Bankruptcy Code should offer greater protections on the indirect sovereign currencies - <https://scholarlycommons.law.emory.edu/cgi/viewcontent.cgi?article=1099&context=ebdj>
4. Celsius has requested the court for authorization to sell its Stablecoin holdings, which is basically the Cash Collateral the debtor borrowed from the Stablecoin Creditors through the Earn accounts they deposited. These liquidities in Stablecoin form denominated in US dollar have allowed Celsius (debtor) to generate revenue for the company and fund its business operation. In encouraging community to deposit more Stablecoins and other assets to the Celsius, the Debtor has been communicating to the creditors that they can withdraw their holdings in Celsius anytime they wish to. **Alex has also been assuring his communities in his weekly AMA that Celsius has 2 billions in assets, enough to cushion or sustain any concurrent withdrawals without any bank run. Indirectly the debtor has pledged and used its stablecoin and other assets holdings to assure the safety of the creditors deposits in the event large concurrent creditors' withdrawal**

occur. This was Celsius' way to encourage more creditors to deposit their stablecoins/assets into Celsius.

Therefore, the liquidities in the form of Stablecoin provided to the Celsius (debtors) through the Earn accounts were secured by nature, making the Stablecoins creditors as the secured party, because of the following reasons:-

- the stablecoin was backed by trusted Cash Collateral, specifically the United States Dollar while Celsius has been assuring the communities it has **2 billions in assets to cushion concurrent withdrawal and prevent bank run, indirectly pledging its holdings as a collateral.**
<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174910172280000000139.pdf>
- the Secured Creditors **have “control” over their Stablecoins in Earn accounts prior to the bankruptcy filing, in which the Stablecoin holders in the Earn accounts can withdraw their Stablecoins anytime when they wish to. The ability of perfection of security interest in the form of “control” is aligned with the Uniform Commercial Code (UCC)’ perfection rules** that in the event the debtor becomes insolvent, and under the perfection of its security interest in the form of “control”, a Secured Creditor of Stablecoin can gain priority over other parties in collecting the cash collateral - <https://www.nolo.com/legal-encyclopedia/how-attach-perfect-security-interest-under-the-ucc.html>
- if Celsius (debtor) seek authorization from the court in selling the Cash collateral in the form of stablecoin, that implies the stablecoin holders are secured creditors. At any given situations, should debtor turns assets into cash or cash equivalents or even intend to sell the cash collateral, the debtor must either get the creditors consent for the use of cash collateral by way of an agreed order or seek authorization from the court. This implies Stablecoin creditors have rights in the cash collateral they placed in Earn Account as Secured Creditor. Here is the real world example given.

For example, if the debtor owns an office building that is creditor's collateral, then the rents received can only be used by the debtor after entry of a court order authorizing the use of cash collateral pursuant to an approved budget"

5. According to 11 U.S. Code Section 363(a), the full definition of Cash Collateral is "cash, negotiable instruments, documents of title, securities, deposit accounts or other cash equivalents. In the bankruptcy chapter 11 context, Cash Collateral is cash and equivalents collected and held for the benefit of creditors during Chapter 11 bankruptcy proceedings and typically **cash collateral is separated from other assets for the purposes of paying creditors. In the context of bankruptcy, any cash collected or generated from the sale of assets is considered cash collateral.**
6. **Under 502(b) of the Bankruptcy Code, customer claims should to be denominated in U.S. dollar amount as opposed to other form or unit of denominations.** Having the Stablecoins denominated in USD as well, more considerations and weights may want to be given to Stablecoins over other collateral class as far as creditor claims are concerned.

Conclusion

WHEREFORE, for the reasons set forth herein, the I respectfully requests on behalf of Stablecoin Creditors that the Court consider Stablecoin holders as Secured Creditors, and grant such other and further relief as may be just and proper.

Respectfully Submitted

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